

MEMORANDUM

August 24, 1971

TO: David Carton  
FROM: J. J. Rattray  
SUBJECT: Pollution Suit

0751

asp

Date:	10.7
Other:	8-24-71

I am attaching a xerox copy of the Summons regarding the subject.

Also attached is a copy of Godfrey Moll's memo dated 8/23 regarding the fish kill last Fall.

J. J. Rattray

JJR/dm  
Attachments



40027802  
SUPERFUND RECORDS

7 51650

August 23, 1971

MEMORANDUM

TO: J. J. Rattray ✓  
c. c. Sam Dickey  
Rick Bagby  
Earl Barkley

Milton Chamberlin  
Freylon Coffey  
Jim Rundell

FROM: Godfrey J. Moll

SUBJECT: "Fish Kill Last Fall"

The following is a summary of my notes and actions following the reported "fish kill last fall" (see the Lawrence Chieftain newspaper article of August 19, 1971).

Plant Manager Rick Bagby informed me on August 7, 1970 that the Game Warden (Darrel Testerman) came into the plant to find out if we had discharged anything into Spring River that would kill fish. He indicated that there were three to four dead fish down stream of Hoffman-Taff. We indicated that there was no discharge from our operations, but that on August 4, 1970 we had observed Toluene floating in our plant drainage ditch, which was traced back to the NEPACCO operations. NEPACCO found the source of the discharge and immediately disconnected the piping to avoid future accidents. It was estimated that the loss was about 50 gallons of Toluene. This discharge was reported to the Water Pollution Board (I don't know who reported it, but we were warned by the Conservation Commission - Dr. James Whitely that they should be notified first and immediately).

We provided the Game Warden with a new plastic bag to collect the dead fish and submit them to the Conservation Commission Biologist (John Goddard) in Springfield. I phoned Mr. Goddard the following week and he said that I would have to contact Jefferson City to obtain a copy of his report. I phoned Dr. James Whitely on August 18, 1970 and requested a copy (at that time he did not have the report). He told me that in the future, "We should notify the (Conservation Commission) agent on all releases - immediately". We never received a copy of this report.

I contacted Frank Ryck (a new employee) of the Conservation Commission in Jefferson City on August 20, 1971 to request a copy of the report (Dr. Whitely was not available). He indicated that he would look into the matter, and will speak to Dr. Whitely on Monday, August 23, 1971.

I will forward copies of the report when I receive it.

  
Godfrey J. Moll

GJM/cr

# SERVICE COPY OF SUMMONS

Circuit Court For the County of LAWRENCE

STATE OF MISSOURI

S. B. ERWIN and ADA GERTRUDE ERWIN

Plaintiff

vs.

HOFFMAN-TAFF, INC., a Corporation  
and RICHARD BAGBY

Defendant

*cc. Copy to Sam Trelby  
Office Trelby Court  
(2) File Petition in Court  
4/11/71*

No. 28142

The State of Missouri to Defendant **Richard Bagby (Aurora, Mo.)**

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

**Edward V. Sweeney**

attorney for plaintiff

whose address is

**200 Central, Monett, Missouri.**

all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the petition.

(Seal of Circuit Court)

~~Knowles Blevins~~

Circuit Clerk.

By

Deputy Clerk.

Dated August 13, 1971

## DIRECTIONS TO CLERK

The clerk should insert in the summons the names of only the defendant or defendants who are to be personally served by the officer to whom the summons is delivered. The summons should be signed by the clerk or deputy clerk under seal of the court and a copy of the summons and a copy of the petition for each of such defendants should be delivered along with the original summons to the officer or other person who is to make service. The copy of the summons may be a carbon or other copy and should be signed and sealed in the same manner as the original but it is unnecessary to certify that the same is a true copy. The copy of the petition may be a carbon or other copy and should be securely attached to the copy of the summons but need not be certified a true copy. If plaintiff has no attorney, the address of plaintiff should be stated in the summons, and the words "attorney—for" eliminated. (See Civil Rules 54 and 55.27.)

IN THE CIRCUIT COURT OF LAWRENCE COUNTY, MISSOURI

At Mt. Vernon

S. B. ERWIN and  
ADA CEBTRUDE ERWIN,

Plaintiffs,

vs.

Case No. 28442

HOFFMAN-TAFF, INC., a  
Corporation; AND

RICHARD BAGBY,

Defendants.

PETITION FOR DAMAGES

Come now the plaintiffs and for their claim against defendant  
state:

I.

That plaintiffs are residents of Lawrence County, Missouri;  
that the defendant Hoffman-Taff, Inc. is a corporation organized and  
existing under the laws of the State of Delaware; that the registered  
agent of said corporation in the State of Missouri is the C.T.  
Corporation System, 314 North Broadway, St. Louis, Missouri; that  
plaintiffs claim herein alleged arose in Lawrence County, Missouri;  
that defendant, Richard Bagby, is a resident of Lawrence County,  
Missouri.

II.

That plaintiffs are, and at all times herein mentioned were  
the owners of the following described real estate situated in  
Lawrence County, Missouri, to-wit:

The South One-Half (S 1/2) of the Northeast Quarter (NE 1/4)  
Section Seven (7), Township Twenty-six (26), Range Twenty-six  
(26); and the Northwest Quarter (NW 1/4) of the Southeast  
Quarter (SE 1/4) of Section Seven (7), Township Twenty-six  
(26), Range Twenty-six (26); and also the West One-Half  
(W 1/2) of Lot One (1) of the Northwest Quarter (NW 1/4) of  
Section Five (5), Township Twenty-six (26), Range Twenty-six  
(26); and also the Southwest Quarter (SW 1/4) Section  
Five (5), Township Twenty-six (26), Range Twenty-six (26)  
and the South One-Half (S 1/2) of the Southeast Quarter (SE 1/4)  
Section Six (6), Township Twenty-six (26), Range Twenty-six  
(26); and the Northeast Quarter (NE 1/4), Section Seven (7),  
Township Twenty-six (26), Range Twenty-six (26) and the  
Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4)  
Section Seven (7), Township Twenty-six (26), Range  
Twenty-six (26); and the Northwest Quarter (NW 1/4) of the  
Northwest Quarter (NW 1/4) and Eight (8) acres described as  
being part of the Northeast Quarter (NE 1/4) of Northwest  
Quarter (NW 1/4), Section Eight (8), Township Twenty-six

(26), Range Twenty-six (26) and more particularly described as follows: Beginning at the Northeast (NE) Corner of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eight (8), thence West 30 poles, thence South 26 poles 6 links to a rock, thence North 77 1/2 degrees East to the center line of Section 8, to a point which is 7 poles 6 links South of the Northeast (NE) Corner of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eight (8), thence North (N) seven (7) poles and six (6) links to beginning;

that defendant, Hoffman-Taff, Inc. operates, manages and maintains a manufacturing or processing plant at Verona, Lawrence County, Missouri; that defendant, Richard Bagby is the manager in charge of such operation, and he was at all times herein mentioned acting as agent and employee of defendant Hoffman-Taff, Inc.


### III.

That a natural stream known as Spring River flows over, through and upon the land owned by plaintiffs and hereinabove described; that subsequent to plaintiffs acquisition of said real estate the defendant, in conducting its operations at the plant aforesaid, discharged or caused to be discharged and released into said stream and into the soil, sand and gravel adjacent to and beneath said stream certain substances, chemicals, elements and compounds which have caused said stream and the sand, gravel and sub-soil adjacent to and beneath the same to become contaminated and polluted so that the natural beauty of the stream has been destroyed and the appearance of the water flowing therein has been damaged; that by reason of said contamination and pollution the marine life, fish and natural vegetable growth in said stream have been impaired and destroyed; that by reason of said pollution and contamination the stream, and certain springs on plaintiffs property fed by underground or subterranean waters have become discolored and have developed a foul and disagreeable odor which is a constant source of irritation and damage to plaintiffs; that the value of said stream as a source of drinking water for plaintiffs' livestock has been impaired; that prior to said pollution plaintiffs and their children were able to enjoy said stream for swimming and fishing purposes but that by reason of said contamination and pollution they are deprived of such beneficial use of said stream; that the presence

and location of said stream and springs on plaintiffs property prior to their pollution and contamination greatly enhanced the value of plaintiffs real estate and that by reason of the contamination and pollution aforesaid the value of plaintiffs real estate has been greatly reduced and diminished.

IV.

That defendants, at the time of discharging or permitting the discharge of the material aforesaid into said stream and the sand, gravel and sub-soil adjacent to and beneath the same, knew or should have known that a nuisance would thereby be created and was created and maintained causing damage and detriment to plaintiffs. Plaintiffs state that said pollution, contamination, damage and detriment to plaintiffs will be permanent and plaintiffs have been damaged by reason thereof as aforesaid in the sum of One Hundred Thousand (\$100,000.00) Dollars, for which amount they pray judgment against defendants and each of them together with their costs.

  
EDWARD V. SWANNEY  
200 Central  
Monett, Missouri

ATTORNEYS FOR PLAINTIFFS